

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 3:14-cr-00016-RLY-MPB
)	
VERDALE L. FOX,)	-01
)	
Defendant.)	

REPORT AND RECOMMENDATION

On September 10, 2021, the Court held an Initial Appearance on a Warrant for Violation of Supervised Release. Defendant Fox appeared in person with his appointed counsel Erin Berger. The government appeared by Lauren Wheatley, Assistant United States Attorney. The United States Probation and Parole Office appeared by Officer Katrina Sanders.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant Fox of his rights and provided him with a copy of the petition. Defendant Fox waived his right to a preliminary hearing.
2. After being placed under oath, Defendant Fox admitted violations 1, 2, and 3 ([Docket No. 50](#)). In support of sentencing arguments, the government called USPO Officer Katrina Sanders as a witness.
3. The allegations to which Defendant admitted, as fully set forth in the petition, are:


	Violation Number	Nature of Noncompliance
	1	<p>"The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance."</p> <p>As previously reported to the Court, Verdale Fox tested positive for cannabinoid on January 29, February 24, March 16, May 26, June 4, June 10, June 18, June 25, July 7, July 21, July 28, and August 6, 2021.</p> <p>According to the Volunteers of America (VOA), he also tested positive on August 9 and August 13, 2021.</p>
	2	<p>"You shall reside in a residential reentry center for a term of up to 90 days. You shall abide by the rules and regulations of the facility."</p> <p>On August 9, 2021, Mr. Fox reported to the VOA as instructed on his modified conditions of supervision. On September 5, 2021, while VOA staff were conducting a walk through of the facility, Mr. Fox was found in possession of contraband; specifically, a baggie of an unknown leafy substance.</p>
	3	<p>"You shall not knowingly purchase, possess, distribute, administer, or otherwise use any psychoactive substances (e.g., synthetic marijuana, bath salts, Spice, glue, etc.) that impair a person's physical or mental functioning, whether or not intended for human consumption."</p> <p>As noted above, on September 5, 2021, Mr. Fox was found in possession of a baggie of an unknown leafy substance, at the VOA.</p>

4. The parties stipulated that:
- (a) The highest grade of violation is a Grade C violation.
 - (b) Defendant's criminal history category is VI.
 - (c) The advisory range of imprisonment applicable upon revocation of supervised release, therefore, is 8-14 months' imprisonment.

The Magistrate Judge, having considered the factors in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions in the petition, that his supervised release should be revoked, and that he be sentenced to custody of the Attorney General or his designee for a period of six (6) months. Defendant to recommence supervision upon release from imprisonment for a period of two (2) years and reside at the Volunteers of America for the first sixty (60) days after release.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties have fourteen days after being served a copy of this Report and Recommendation to serve and file written objections with the District Judge.

Dated: September 13, 2021


Matthew P. Brookman
United States Magistrate Judge
Southern District of Indiana

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